

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
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4 United States of America,
5 Plaintiff/Respondent
6 v.
7 Gilberto Landeros,
8 Defendant/Petitioner

Case No.: 2:13-cr-00260-JAD-GWF

**Order Denying Motions for Appointment
of Counsel and to Reevaluate Sentence**

[ECF Nos. 40, 41]

9 In 2014, Gilberto Landeros pled guilty to illegally possessing a firearm under 18 U.S.C.
10 § 922(j) and § 924(a)(2).¹ I sentenced him to a prison term of 120 months after finding that he
11 had prior convictions that qualified as “crimes of violence” under United States Sentencing
12 Guideline § 4B1.2(a). In 2017, Landeros filed a motion to vacate his sentence, arguing that the
13 Supreme Court’s decision in *Johnson v. United States*—which deemed unconstitutional part of
14 the Armed Career Criminal Act’s crime-of-violence definition—rendered his sentence under the
15 advisory Sentencing Guidelines constitutionally infirm. But after Landeros filed his motion, the
16 Supreme Court decided *Beckles v. United States*,² which found the advisory Guidelines still
17 constitutional after *Johnson*, so I denied his motion to vacate because *Beckles* precluded the
18 relief he sought.³

19 Landeros now moves pro se to have his sentenced reevaluated and asks me to appoint
20 him counsel “in light of the change in law under *Sessions v. Dimaya*.”⁴ It appears that Landeros
21 believes *Dimaya* affects the validity of his sentence. It doesn’t. In *Dimaya*, the Supreme Court
22 held that a portion of the Immigration and Nationality Act’s (INA) crime-of-violence definition
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25 ¹ ECF No. 30.

26 ² *Beckles v. United States*, 137 S. Ct. 886 (2017).

27 ³ ECF No. 39.

28 ⁴ ECF Nos. 40, 41. The motions are identical.

1 is unconstitutional.⁵ Landeros was not convicted or sentenced under the INA, so *Dimaya* has no
2 impact on his sentence. *Beckles* still precludes Landeros's relief, so I deny his motion to
3 reevaluate his sentence. And because the interests of justice do not require that I appoint counsel
4 to settle this straightforward legal question, I deny Landeros's motion seeking an attorney.⁶

5 **Conclusion**

6 Accordingly, IT IS HEREBY ORDERED that Gilberto Landeros's motions for
7 appointment of counsel and to reevaluate his sentence [ECF Nos. 40, 41] are **DENIED**.

8 Dated: July 24, 2018

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10 U.S. District Judge Jennifer A. Dorsey
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27 ⁵ *Sessions v. Dimaya*, 138 S. Ct. 1204, 1223 (2018).

28 ⁶ *See* 18 U.S.C. § 3006A(a)(2).